

Nonetheless, according to Interior Secretary Dirk Kempthorne, it is willing to invest “billions” in a kind of omnibus bill on trust claims. The key verb is not “to settle” or “to reimburse” but “to invest,” and in the short term there is no getting around it.

Indian country should engage with the administration’s case settlement concepts, then, and come forward with an improved set of proposals based on them.

It’s a steep order, but the case settlement concepts do provide some footholds. For starters:

The administration foresees “voluntary and involuntary” mechanisms for consolidating fractionated lands. Given the history here, the concept of an involuntary taking of land to be consolidated is troublesome, to say the least. But assuming economic use is the goal of consolidation, there is no other way. Land tracts with hundreds of owners cannot be managed for profit, period. Consolidation that requires consent from all owners is impossible for many reasons. Tribes should be able to propose sensible limits on involuntary consolidation mechanisms that don’t also torpedo the purposes of consolidation.

The administration foresees a “beneficiary managed trust” that would grow the trust estate. This was dangerous at the time of the Dawes Severalty Act, a century and some years ago, but nowadays it simply isn’t a new concept. In fact, it’s a solid, tested concept that can help prosperity along by goading individuals and tribes toward the aggressive management of their own resources. After a 10-year period for technical assistance as financed in the law itself, individuals would manage their own lease property, with payments going direct to individuals instead of being lightened along the way by the government. The original trust funds reform law of 1994 foresaw every bit of that. But the government would still fulfill vital residual roles, maintaining the land as inalienably tribal land, in trust and tax-exempt, as well as probating estates, correcting errors in the accounts, transferring titles and keeping title records. A proposal like this should not be rejected with outrage, but embraced with care. Again, tribes can certainly offer proposals for the longer-term protection of their more vulnerable members.

Tribes have especially reviled the idea of limits on federal liability, should IIM beneficiaries choose to manage their own lands. But already, the U.S. Supreme Court has established limits on federal liability in cases where statutory language does not assign liability. Tribes should be willing to propose strictly limited statutory language that assigns certain modified federal liabilities, but without going so far as to convince McCain and company that the settlement is therefore “partial.”

Tribes also seem to despise the idea of an alteration in the trust relationship. But Elouise Cobell, lead plaintiff in the IIM case, suggests the same and then some every time she declares the IIM trust should be taken from Interior and placed in receivership. This could never be done because no bank could responsibly take on the liabilities, but if it were done it would profoundly alter the trust relationship. So let’s alter it already, not through receivership but by participating and directing. It really is too important to be left to lawyers and individuals.

Finally, tribes have objected to the idea that tribal claims should be included in any settlement that approaches the \$8 billion range. But the guessing here is that if tribes genuinely got behind a “whole” settlement at some realistic cost, providing their own serious counterproposals with a minimum of posturing, billions more might be found.●

NATIONAL INSTITUTES OF HEALTH REFORM ACT

Mr. REED. Mr. President, I take this opportunity to acknowledge a very important deed this body has accomplished prior to the conclusion of the 109th Congress. Despite some incredible obstacles and limited time we have succeeded in protecting real health insurance coverage for low-income, working Americans.

The State Children’s Health Insurance Program, SCHIP, which I am proud to have helped establish in 1997, has made a difference in expanding health insurance coverage to low-income children around this country. In previous years, Congress has stood up for low-income children and produced the additional funding necessary to keep the SCHIP program running. A number of states are again facing urgent shortfalls in their SCHIP allotments in fiscal year 2007. I was deeply disappointed when the tax extenders package did not include, as expected, a modest proposal to help those states facing immediate shortfalls in their SCHIP budgets.

Not so long ago, Rhode Island could proudly claim it had the lowest rate of uninsured children in the country. The latest Census Bureau report is now showing a different picture—the number of uninsured children rose a full percentage point, from 5.8 percent to 6.8 percent from 2004 to 2005. My state has worked hard over the past decade to build a children’s health insurance program that has become a model for the nation. Yet, Rhode Island is anticipated to be the first of several states in a funding shortfall next year. Specifically, my state is facing a \$43 million shortfall and will have only 32 percent of the funding necessary to sustain SCHIP in 2007. These dollars mean the difference between thousands of children, pregnant women, and families getting access to health care or not getting the care they need at all.

Included with the reauthorization of the National Institutes of Health, NIH, is a modest bipartisan proposal to defer the shortfalls that would negatively impact the SCHIP program in my state as well as several others. This additional time is needed to work on a more permanent solution to the chronic shortfalls and other structural issues that should be addressed in the context of SCHIP reauthorization next year.

I would be remiss if I did not extend my sincere gratitude to the Democratic leader, Senator HARRY REID, and his staff, particularly Kate Leone, for their understanding, tenacity, and tireless effort in making this possible. I would also like to thank my colleague from Montana, Senate Finance Committee Ranking Member MAX BAUCUS, and his staff for all of their hard work in putting together a carefully crafted stopgap measure, and I look forward to working with him on the equally challenging task of SCHIP reauthorization next year.

In the waning hours of the 109th Congress, we have taken a small but im-

portant step to maintain our commitment to America’s children.

END OF THE 109TH CONGRESS

Mr. ROCKEFELLER. Mr. President, as the 109th Congress wraps up its final session, I want to note my disappointment that the current leadership decided not to work on all 10 of the appropriations bills that remain undone. Congress is adjourning and walking away with much of our work incomplete.

It is irresponsible and wrong. We should have stayed and made the tough decisions to get the appropriations done. The Federal budget is due October 1. We missed that deadline, as we have often in recent years. The leadership adjourned for the elections, and when we returned the leadership lacked the will and determination to finish the appropriations bill. Many individuals Senators, including me, would have stayed and worked hard to get the job done. But we were overridden.

Failure to enact the appropriations in a timely manner hurts programs because administrators cannot plan and they cannot hire staff in a timely manner. This can create real problems in our VA hospitals, our Head Start agencies and the clinics funded by the Maternal and child health block grant.

This year, instead of doing our work, the congressional leaders are punting the tough budget decisions into the next year and the next Congress. On February 15, 2007, when the continuing resolution, CR, expires, agencies will have been operating for 4½ months under a CR which represents more than a third of the fiscal year. This imposes burdens and hardships on the people that our agencies of Government serve. It is failure of leadership.

The Coalition of Human Needs has done some estimates about these cuts and their effects since 2002. Their analysis highlights that over time 72 programs of direct services have been cut when inflation is considered. Inflation erodes buying power over time, and it makes a stark difference in what services needy children and families receive. The coalition reports that 35 programs were cut by 10 percent or more, including essential programs like family violence, maternal and child health block grant, and Even Start, the early education component of Head Start. Such cuts are harsh and, in my view, shortsighted. Investments in our children’s health care and education are downpayments for our future.

Housing programs, economic development investments in water and sewer projects, and basic funding for local law enforcement, along with a host of other programs will be put on hold for the next 9 weeks. I wish this were not the case, but sadly it is.

My hope for the new Congress and the new leadership is that we will get the job done. I am proud to note that the leaders for the 110th Congress, which begins on January 4, 2007, have